

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5925 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

POPATBHAI SHIVABHAI

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL for Petitioner
Mr.Neegam Shukla, AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application has been entertain as sent from Surat District Jail by detenu. Copy of the detention order, commitment order and the grounds in support of the detention order have been supplied by the learned AGP.

On 12.8.1996 Rule was issued in this case and

made returnable on 9.9.1996. No reply has been filed.

The petitioner is aggrieved against the detention order dated 3.5.1996 passed by the District Magistrate, Jamnagar which was executed on 4.5.1996 and since then the petitioner is under detention lodged at Surat District Jail. The petitioner has been detained under the provisions of the Gujarat Prevention and Antisocial Activities Act, 1985.

From the grounds enclosed with the detention order it appears that that 5 criminal cases under Prohibition Act were registered against the petitioner. The Detaining Authority has taken into consideration the statements made by certain witnesses against the petitioner for his antisocial activities and the Detaining Authority has opined that the petitioner was required to be detained as bootlegger.

The allegation and material relied upon by the Detaining Authority against the petitioner do not make out the case of breach of public order and in view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it at the most can be said to be a case of breach of law and order.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 3.5.1996 passed by the District Magistrate, Jamnagar is hereby quashed and set aside. The detenu's detention is declared to be illegal. The respondents are directed to release the detenu and set him at liberty forthwith if not required in any other case. Rule is made absolute. Since the detenu is not represented through a lawyer Registry may take care to send the writ immediately to all the concerned authorities immediately.
